that this be considered a petition therefore. Please charge the required Petition fee to Deposit Account No. 03-1240.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess to our Deposit Account No. 03-1240.

REMARKS

Favorable reconsideration of this application, as amended herein, is respectfully requested. Claims 1 through 86 remain in the application. Independent claims 1, 16, 31, 69, 77 and 78 are modified pursuant to this amendment.

In the Office Action dated October 29, 2002, the Examiner rejected claims 1-8, and 10-76 under 35 U.S.C. § 103(a) as being made obvious by the teachings of De Tore et al. (4,975,840) in view of Seare et al. (6,223,164). The applicant respectfully disagrees with Examiner's analysis and points out that there are significant differences between the current invention, as amended, and De Tore.

The De Tore patent describes an automated "life underwriting" system, the aim of which is to estimate the risk of future permanent injury or death (mortality). (De Tore, col. 1, lines 10 - 32.) The factors that it considers are:

- The previous and current health.

- Hazardous occupation
- Travel intentions

(*See* De Tore, col. 4, lines 21-35.) These risk factors are assigned certain weights and evaluated based on the standard life insurance rates. (De Tore, col. 14, lines 12 - 39; col. 15, lines 8-14.) The purpose and result of this system is to permit the underwriter to determine whether to underwrite a particular life insurance policy. (De Tore, col. 1, lines 7-9.) For the purposes of underwriting analysis, the applicant is presumed to be medically stable, and an injured person would <u>not</u> be underwritten for the life insurance in accordance with the system taught by De Tore. The medical conditions of a person relate to the "medical history" of the person being evaluated "on the basis of information contained in the underwriting database," which assigns risk factor to certain conditions. (De Tore, col. 5, line 57 - col. 6, line 2.) After evaluating "medical history" factors, the life underwriting system in De Tore makes a recommendation as to the most likely impairments to underwrite (*i.e.*, guiding the underwriting decision) (De Tore, col. 11, lines 17-20.)

In contrast to providing a determination for an underwriter of a life insurance policy, the current invention is directed to assessing <u>the monetary value of a personal injury claim in terms of current and future pain and suffering and loss of</u>

sustained injury. The current medical conditions and impairments of an individual are

evaluated in terms of their prospective effect on the following:

- The pain and suffering associated with the current injuries, treatments and complications
- The prognostic outcome and rehabilitation potential
- The impact of sustained injuries and affecting conditions on the amenities of life (mobility, dexterity, seeing, eating, etc)
- The impact of sustained injuries and affecting conditions on the occupation and resulting loss of income

In a claim assessment system according to the current invention, time

element is a key component in modelling and determining the above factors because

sustained injuries are not static and change with time. Accordingly, the entire human

body is modelled in a progressive time line from the date of injury to the point of

reaching a complete medical stabilization. The claims have been amended to clarify this

important distinction between the current invention and teachings of De Tore patent.

Also, applicant respectively points out that the distinguishing characteristics of the

current invention that are listed above are recited in the independent claims 16, 69, 77

and 78.

Furthermore, the activities in which a person engages in the current

invention relate to the job-related tasks, and are evaluated in terms of the injured person's

description. Instead, it teaches evaluation of the activities in which an individual engages for the purposes of determining the risk factor associated with those activities, and the affect that it might have on the underwriting life policy for that individual. (De Tore, col. 12, lines 12 - col. 13, line15, discussing climbing activities engaged by an individual.) The impact of the injury on work capacity and ability to engage in particular activities, evaluated in progressive time line, are expressly referred to in the independent claims 16, 69 and 78, as amended herein.

Finally, the applicant also respectfully points out that certain novel characteristics of the current invention that are described in the independent claims 77 and 78 and dependent claims 25 - 29, 47- 48, 65-68 and 71-75 are not taught by De Toro or other cited references, either alone or in combination. These include evaluation and entry of a rehabilitation plan or return to work plan by a medical practitioner, assessment of common law general damages, wage loss, loss of future earnings, an estimate of the future cost of settling the claim and estimate of the total future cost of all claims in the portfolio.

In view of the foregoing amendments and remarks, applicant respectfully submits that the Claims 1-86 are in condition for allowance. Applicant hereby respectfully requests entry of this Amendment and an early favorable action on the

Respectfully submitted,

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Version With Markings To Show Changes Made

-- 1. (Amended) A computerized method for assessing medical conditions affecting <u>medically impaired</u> person, said method comprising the steps of:

a) providing a plurality of profiles relating predetermined medical conditions to human body parts, each said profile describing an estimated capacity of at least one said body part <u>from the time of injury in a progressive time line</u>, due to at least one said condition[, over time];

b) identifying one or more said predetermined medical conditions that <u>currently</u> affect said person;

c) selecting a said profile corresponding to each said medical condition; and

d) relating said selected profile's time dimension to the occurrence of its said medical condition.

16. (Amended) A computerized method for assessing the impact of medical conditions <u>and impairments affecting</u> [on] a person, said method comprising the steps of:

a) providing a plurality of profiles relating predetermined medical conditions to human body parts, each said profile describing an estimated capacity of at least one said body part <u>from the time of injury in a progressive time line</u>, due to at

c) determining what capacity level of each said one or more body parts inhibits said person from performing said job;

d) identifying one or more said predetermined medical conditions that <u>currently</u> affect said person;

e) selecting a said profile corresponding to each said one or more medical conditions;

f) relating each said selected profile's time dimension to the occurrence of its said medical condition;

g) for each said selected profile applicable to a said body part determined at step (b), determining a date for said applicable selected profile upon which said estimated capacity profiled by said applicable selected profile first moves beyond said capacity level determined at step (c) for its said body part so that said medical condition to which said applicable selected profile corresponds does not inhibit said job; and

h) determining the latest said date determined at step (g).

31. (Amended) A computerized method for assessing the impact of medical conditions <u>and impairments affecting</u> [on] a person, said method comprising the steps of:

a) providing a model of the human body, said model including body parts that, in combination with each other, form the human body;

c) identifying one or more said predetermined medical conditions that <u>currently</u> affect said person; and

d) combining said severity values for said medical conditions identified at step (c) to a combined severity value.

69. (Amended) A method for assessing the impact of medical conditions <u>and</u> <u>impairments affecting</u> [on] a person, said method comprising the steps of

a) providing a model of the human body, said model including body parts that, in combination with each other, form the human body, wherein said human body parts are classified into a multi-level hierarchy, each said body part in each level of said hierarchy below a highest level of said hierarchy being a component body part of a composite body part in a higher level in said hierarchy;

b) providing, for each medical condition of a plurality of predetermined medical conditions, a severity value that describes the impact of said medical condition on at least one said body part;

c) identifying one or more said predetermined medical conditions that <u>currently</u> affect said person;

d) for each said body part having multiple said medical conditions identified at step (c), combining said severity values corresponding to said identified medical

e) for each said composite body part up to a composite body part corresponding to the human body as a whole, combining said severity value of each said component body part of said composite body part up to a composite body part severity value for said composite body part based on the spatial relationship among said component body parts within the human body;

f) where said person has spent time in a hospital as a patient, providing a severity value that describes the impact on said person [of said]from the time of injury in a progressive time line [time];

g) where said person has received convalescent care, providing a severity value that describes the impact on said person of time spent by said person under convalescent care;

h) where said person is predicted to suffer a medical condition in the future, providing a severity value, arranged in a progressive time line, that describes the impact on said person of said medical condition;

i) where said person has suffered post traumatic stress syndrome, providing a severity value that describes the impact on said person of said post traumatic stress syndrome;

j) where said person has suffered a temporary loss of ability to enjoy life,

k) where said person has suffered a permanent loss of ability to enjoy life, providing at least one severity value that describes the impact on said person of said loss; and

l) where said person has suffered a permanent dysfunction, providing a severity value that describes the impact on said person of said permanent dysfunction.

77. (Amended) A method for modeling medical conditions and impairments affecting [in] a person, said method comprising the steps of:

a) where said person is subject to a workers' compensation system,

i) providing a plurality of profiles relating predetermined medical conditions to human body parts, each said profile describing an estimated capacity of at least one said body part from the time of injury in a progressive time line, due to at least one said condition, [over time,]

ii) identifying one or more said predetermined medical conditions that currently affect said person,

iii) selecting a said profile corresponding to each said medical condition, and

iv) relating said selected profile's time dimension to the occurrence of its said medical condition;

ii) providing, for each medical condition of a plurality of predetermined medical conditions, a severity value that describes the impact of said medical condition on at least one said body part,

iii) identifying one or more said predetermined medical conditions that affect said person, and

iv) combining said severity values for said medical conditions identified at step (b,iii) to a combined severity value; and

c) displaying an assessment of the impact of said medical condition identified at steps (a,ii) or (b,iii) on said person, wherein said assessment is based on said profiles related to said medical conditions at step (d) or on said combined severity value at step (b,iv), respectively.

78. (Amended) A method for assessing the impact of medical conditions and impairments affecting [on] a person, said method comprising the steps of

a) where said person is subject to a workers' compensation system,

i) providing a plurality of profiles relating predetermined medical conditions to human body parts, each said profile describing an estimated capacity of at least one said body part, due to at least one said predetermined medical condition from the time of injury in a progressive time line, [over time,]

iii) determining what capacity level of each said one or more body parts inhibits said person from performing said job,

iv) identifying one or more said predetermined medical conditions that currently affect said person,

v) selecting a said profile corresponding to each said one or more medical conditions,

vi) relating each said selected profile's time dimension to the occurrence of its said medical condition,

vii) for each said selected profile applicable to a said body part determined at step (a,ii), determining a date for said applicable selected profile upon which said estimated capacity profiled by said applicable selected profile first moves beyond said capacity level determined at step (a,iii) for its said body part so that said medical condition to which said applicable selected profile corresponds does not inhibit said job, and

viii) determining the latest said date determined at step (a,vii);

b) where said person is subject to a common law compensation system,

i) providing a model of the human body, said model including body parts that, in combination with each other, form the human body, wherein said human body

ii) providing, for each medical condition of a plurality of predetermined medical conditions, a severity value that describes the impact of said medical condition on at least one said body part,

iii) identifying one or more said predetermined medical conditions that currently affect said person,

iv) for each said body part having multiple said medical conditions identified at step (b,iii), combining said severity values corresponding to said identified medical conditions to a total severity value for said body part based on the time at which said medical conditions to which said severity values correspond occurred,

v) for each said composite body part up to a composite body part corresponding to the human body as a whole, combining said severity value of each said component body part of said composite body part up to a composite body part severity value for said composite body part based on the spatial relationship among said component body parts within the human body,

vi) where said person has spent time in a hospital as a patient, providing a severity value that describes the impact on said person from the time of injury in a progressive time line, [of said time,]

vii) where said person has received convalescent care, providing a

viii) where said person is predicted to suffer a medical condition in the future, providing a severity value that describes the impact on said person of said medical condition,

ix) where said person has suffered post traumatic stress syndrome, providing a severity value that describes the impact on said person of said post traumatic stress syndrome,

x) where said person has suffered a temporary loss of ability to enjoy life, providing at least one severity value that describes the impact on said person of said loss,

xi) where said person has suffered a permanent loss of ability to enjoy life, providing at least one severity value that describes the impact on said person of said loss, and

xii) where said person has suffered a permanent dysfunction, providing a severity value that describes the impact on said person of said permanent dysfunction; and

c) displaying an assessment of the impact of said medical conditions identified at steps (a,ii) or (b,iii) on said person, wherein said assessment is based on said latest date at step (a,viii) or on said whole body severity at step (b,v) and any said severities provided at steps (b,vi)-(b,xii), respectively. --